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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,924	04/13/2004	Norman D. Hinman	582429.00001	3565
20873	7590	10/30/2008	EXAMINER	
Locke Lord Bissell & Liddell LLP			JOHNSON, EDWARD M	
Attn: Michael Ritchie, Docketing			ART UNIT	PAPER NUMBER
2200 Ross Avenue				1793
Suite # 2200				
DALLAS, TX 75201-6776				
MAIL DATE		DELIVERY MODE		
10/30/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/822,924	HINMAN ET AL.
	<b>Examiner</b> Edward M. Johnson	Art Unit 1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 25 August 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-160 is/are pending in the application.
- 4a) Of the above claim(s) 1-105 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 106-160 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/0256/06)  
 Paper No(s)/Mail Date 04.06.06/07
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of claims 106-160 in the reply filed on 8/25/08 is acknowledged.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 106-160 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. US 4,591,492.

Regarding claim 106, Tanaka '492 discloses a carbon silica powder comprising carbon and silica (abstract).

Tanaka fails to disclose fixed carbon and a carbon silica ratio of 1:1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a fixed carbon with respect to the silica and at least a 1:1 ratio because Tanaka discloses both are in rice husk (abstract) and a ratio of carbon and silicon of 7:3 to 5:5 (column 3, lines 15-29).

Regarding claims 107-116 and 135-160, Tanaka discloses a ratio of carbon and silicon of 7:3 to 5:5 (column 3, lines 15-29).

Regarding claims 117-122, Tanaka discloses a carbon silica powder (Example 1).

Regarding claims 123-134, it would have been obvious to one of ordinary skill in the art at the time the invention was made to produce other forms of silicon such as silicon nitride and carbide and others because Tanaka discloses silicon carbide (title) produced from rice hulls (abstract).

Claims 106-160 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. US 6,117,810.

Regarding claim 106, Lee '810 discloses a carbon-silica powder comprising carbon and silica, wherein silica is in the pores of the carbon according to a ratio (column 2, lines 15-25).

Lee '810 fails to disclose a ratio of greater than 1:1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a ratio of greater than 1:1 because the silica is in the pores along with alumina, which would obviously, to one of ordinary skill, suggest carbon

as the dominant ingredient over silica in a greater than 1:1 ratio.

Regarding claims 107-116 Lee discloses the silica is in the pores along with alumina (abstract).

Regarding claims 117-160, Lee '810 discloses a carbon-silica powder (abstract).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward M. Johnson whose telephone number is 571-272-1352. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Edward M. Johnson/  
Primary Examiner  
Art Unit 1793

EMJ